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COMMISSION ON HUMAN RIGHTS
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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Draft resolution submitted by Mr. Alfonso Martínez, Ms. Attah,
Mr. Chernichenko and Mr. Hatano

1992/... Cultural and intellectual property of indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1991/32 of 29 August 1991, in which it decided to entrust Mrs. Erica-Irene Daes, as Special Rapporteur, with the task of preparing a study of measures which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples,

Reiterating its concern at the extensive international traffic in indigenous cultural property, which undermines the ability of indigenous peoples to pursue their own political, economic, social, religious and cultural development in conditions of freedom and dignity,

Conscious that indigenous peoples continue to experience difficulties in utilizing national and international mechanisms for the recovery of their

cultural property because, inter alia, their own laws defining cultural property and forbidding its alienation are not documented or respected,

Welcoming the concise report of the Secretary-General on intellectual property of indigenous peoples (E/CN.4/Sub.2/1992/30), prepared pursuant to its resolution 1991/31,

Mindful of the conclusions and recommendations of the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples and the Environment (E/CN.4/Sub.2/1992/31) concerning the intellectual property of indigenous peoples,

Aware of the importance attached by the United Nations Conference on Environment and Development to the traditional knowledge of indigenous peoples,

Guided by the conclusions and recommendations of the tenth session of the Working Group on Indigenous Populations (E/CN.4/Sub.2/1992/33) based, in particular, on the relevant discussions of the Working Group at its ninth and tenth sessions,

Convinced that there is a relationship, in the laws or philosophies of indigenous peoples, between cultural property and intellectual property, and that the protection of both is essential to the indigenous peoples' cultural and economic survival and development,

Reaffirming the important catalytic role to be played by the Working Group on Indigenous Populations within the United Nations system in finding ways for all bodies and specialized agencies to contribute to the promotion and protection of the rights of indigenous peoples within their respective areas of competence,

Believing that the United Nations can make a significant contribution to the recognition, promotion, and restoration of the rights of indigenous peoples by securing respect for these peoples' control and full enjoyment of their own cultural, religious, literary, and scientific achievements,

1. Welcomes, inter alia, decision 1992/... of the Economic and Social Council, approving its recommendation that Mrs. Erica-Irene Daes be appointed as Special Rapporteur, to prepare a study of measures which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples;

2. Requests the Special Rapporteur to include in her study, inter alia, a comprehensive analysis of the laws and traditions of indigenous peoples with respect to the definition, ownership and control of cultural property, and preliminary views on the feasibility of developing a United Nations manual of indigenous laws in this field;

3. Recommends that the Special Rapporteur also include a consideration of the relationship between indigenous cultural and intellectual property, as well as recommendations for further research and action on intellectual property;

4. Also recommends that the title of the study should be revised to "Protection of the cultural and intellectual property of indigenous peoples";

5. Reaffirms that the study should be prepared in direct cooperation with indigenous peoples, and authorizes the Special Rapporteur to collect relevant information and data from Governments, specialized agencies, in particular the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO), intergovernmental organizations and non-governmental organizations, as well as indigenous peoples, organizations and communities;

6. Invites UNESCO and WIPO to contribute to the work of the Special Rapporteur in their respective areas of competence;

7. Urges the United Nations Development Programme (UNDP) and other competent United Nations bodies and specialized agencies to give priority consideration to projects aimed at strengthening indigenous peoples' own capacities for ecological and medical research, studies and for improving their control over research conducted within their territories;

8. Requests the Secretary-General to give the Special Rapporteur all the assistance she may require to complete these tasks successfully.